

AMENDED IN SENATE APRIL 25, 2011

AMENDED IN SENATE MARCH 30, 2011

SENATE BILL

No. 482

Introduced by Senator Kehoe

February 17, 2011

An act to amend Sections 115875, 115880, 115885, 115890, 115895, and 115915 of, to add Section 115881 to, and to repeal Sections 115900 and 115905 of, the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

SB 482, as amended, Kehoe. Public beach contamination: standards: testing: closing.

Existing law requires local health officers to submit to the State Water Resources Control Board prescribed information regarding beach postings and closures and requires the board to make that information available to the public and to post the information on its Internet Web site.

Existing law requires the State Department of Public Health to adopt regulations to establish minimum standards for the sanitation of public beaches, as defined, and to require the testing of the waters adjacent to beaches for microbiological contaminants and to require posting and closure of beaches that are in violation of the standards. A violation of these regulations is a crime.

This bill would, commencing January 1, 2012, give primary responsibility for administration of the provisions relating to monitoring site locations, monitoring frequency, and public notification to the board and would leave in place the regulations existing as of January 1, 2012, to be administered, enforced, and amended as necessary by the board. The bill would delete related findings.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 115875 of the Health and Safety Code
2 is amended to read:
3 115875. For the purposes of this article, the following terms
4 have the following meanings:
5 (a) “Public beach” means any beach area used by the public for
6 recreational purposes that is owned, operated, or controlled by the
7 state, any state agency, any local agency, or any private person in
8 this state, and is located in the coastal zone, as defined in Section
9 30103 of the Public Resources Code, or within the jurisdiction of
10 the San Francisco Bay Conservation and Development
11 Commission, as set forth in Section 66610 of the Government
12 Code. “Public beach” also includes any beach of ocean waters and
13 bays of the state where water-contact sports are engaged in by the
14 public.
15 (b) “Board” means the State Water Resources Control Board.
16 (c) “Department” means the State Department of Public Health.
17 (d) “Health officer” means the legally appointed local health
18 officer or director of environmental health of the county or city
19 having jurisdiction of the area in which a public saltwater beach
20 is located.
21 SEC. 2. Section 115880 of the Health and Safety Code is
22 amended to read:
23 115880. (a) The department shall by regulation, in consultation
24 with the board, local health officers, and the public, establish,
25 maintain, and amend as necessary, minimum standards for the
26 sanitation of public beaches, including, but not limited to, the
27 removal of refuse, as it determines are reasonably necessary for
28 the protection of the public health and safety.
29 (b) Prior to final adoption or amendment by the department, the
30 regulations and standards required by this section shall undergo
31 an external comprehensive review process similar to the process
32 set forth in Section 57004 of the Health and Safety Code.
33 (c) The regulations shall, at a minimum, do all of the following:
34 (1) Require the testing of the waters adjacent to all public
35 beaches for microbiological contaminants, including, but not

1 limited to, total coliform, fecal coliform, and enterococci bacteria.
2 The department may require the testing of waters adjacent to all
3 public beaches for microbiological indicators other than those set
4 forth in this paragraph, or a subset of those set forth in this
5 paragraph, if the department affirmatively establishes, based on
6 the best available scientific studies and the weight of the evidence,
7 that the alternative indicators are as protective of the public health.

8 (2) Establish protective minimum standards for total coliform,
9 fecal coliform, and enterococci bacteria, or for other
10 microbiological indicators that the department determines are
11 appropriate for testing pursuant to paragraph (1).

12 SEC. 3. Section 115881 is added to the Health and Safety Code,
13 to read:

14 115881. (a) Commencing January 1, 2012, primary jurisdiction
15 shall be transferred from the department to the board for state
16 administration of all of the following:

17 (1) Determining monitoring site locations and monitoring
18 frequency based on risks to public health and options for modifying
19 wastewater and stormwater discharge monitoring requirements of
20 local agencies as a method of meeting the requirements set forth
21 in Section 115880.

22 (2) Making decisions regarding public notification of health
23 hazards, including, but not limited to, the posting, closing, and
24 reopening of public beaches.

25 (3) Requiring that the waters adjacent to public beaches are
26 tested for total coliform, fecal coliform, and enterococci bacteria,
27 or for other microbiological indicators that the department
28 determines are appropriate for testing pursuant to paragraph (1).
29 Except as set forth in subdivision (b), testing shall be conducted
30 on at least a weekly basis year round if all of the following apply:

31 (A) The beach is visited by more than 50,000 people annually.

32 (B) The beach is located on an area adjacent to a storm drain
33 that flows in the summer.

34 (b) The monitoring frequency and locations established pursuant
35 to this section and related regulations may only be reduced or
36 altered after the testing required pursuant to paragraph (3) of
37 subdivision (a) reveals levels of microbiological contaminants that
38 do not exceed, for a period of two years, the minimum protective
39 standards established pursuant to Section 115880.

1 (c) Regulations adopted by the department for the
2 implementation of this article that are in effect as of January 1,
3 2012, shall remain in effect and shall, thereafter, be administered,
4 enforced, and amended as necessary by the board.

5 (d) The local health officer shall be responsible for testing the
6 waters adjacent to, and coordinating the testing of, all public
7 beaches within his or her jurisdiction.

8 (e) The local health officer may meet the testing requirements
9 of this section by utilizing test results from other agencies
10 conducting microbiological contamination testing of the waters
11 under his or her jurisdiction.

12 (f) Any city or county may adopt standards for the sanitation
13 of public beaches within its jurisdiction that are stricter than the
14 standards adopted by the board pursuant to this section.

15 (g) Any duty imposed upon a local public officer or agency
16 pursuant to this ~~section~~ *article* shall be mandatory only during a
17 fiscal year in which the Legislature has appropriated sufficient
18 funds, as determined by the ~~Public Health Officer board~~, in the
19 annual Budget Act or otherwise for local agencies to cover the
20 costs to those agencies associated with the performance of these
21 duties. The ~~Public Health Officer board~~ shall annually, within 15
22 days after enactment of the Budget Act, file a written statement
23 with the Secretary of the Senate and with the Chief Clerk of the
24 Assembly memorializing whether sufficient funds have been
25 appropriated.

26 SEC. 4. Section 115885 of the Health and Safety Code is
27 amended to read:

28 115885. The health officer having jurisdiction over the area in
29 which a public beach is created shall:

30 (a) Inspect the public beach to determine whether the standards
31 established pursuant to Section 115880 are being complied with.
32 If the health officer finds any violation of the standards, he or she
33 may restrict the use of, or close, the public beach or portion thereof
34 in which the violation occurs until the standard is complied with.

35 (b) Investigate any complaint of a violation of any standard
36 established by the department pursuant to Section 115880. If the
37 health officer finds any violation of the standards prescribed by
38 the department, he or she may restrict the use of, or close, the
39 public beach or portion thereof until the standard is complied with.
40 If the person who made the complaint is not satisfied with the

1 action taken by the health officer, he or she may report the violation
2 to the department. The department shall investigate the reported
3 violation, and, if it finds that the violation exists, it may restrict
4 the use of or close the public beach or portion thereof until the
5 standard violated is complied with.

6 (c) (1) Whenever a beach is posted, closed, or otherwise
7 restricted in accordance with Section 115915, the health officer
8 shall inform the agency responsible for the operation and
9 maintenance of the public beach within 24 hours of the posting,
10 closure, or restriction.

11 (2) The health officer shall establish a telephone hotline to
12 inform the public of all beaches currently closed, posted, or
13 otherwise restricted. The hotline shall be updated as needed in
14 order to convey changes in public health risks.

15 (d) Report any violation of the standards established pursuant
16 to Section 115880 to the district attorney, or if the violation
17 occurred in a city and, pursuant to Section 41803.5 of the
18 Government Code, the city attorney is authorized to prosecute
19 misdemeanors, to the city attorney.

20 (e) In the event of a known untreated sewage release, the local
21 health officer shall immediately test the waters adjacent to the
22 public beach and to take action pursuant to regulations established
23 under Sections 115880 and 115881.

24 (f) Notwithstanding any other provision of law, in the event of
25 an untreated sewage release that is known to have reached
26 recreational waters adjacent to a public beach, the local health
27 officer shall immediately close those waters until it has been
28 determined by the local health officer that the waters are in
29 compliance with the standards established pursuant to Section
30 115880. If the department is aware of an untreated sewage release
31 that has reached recreational waters adjacent to a public beach,
32 and that the local health officer has not taken action to close the
33 beach, it may take action to close those waters until the waters are
34 in compliance.

35 SEC. 5. Section 115890 of the Health and Safety Code is
36 amended to read:

37 115890. Prior to restricting the use of or closing a public beach
38 or portion thereof alleged to be in violation of standards, the health
39 officer or the department as the case may be, shall give reasonable

1 notice of the violation to the owner of, or person or agency in
2 charge of, the beach.

3 SEC. 6. Section 115895 of the Health and Safety Code is
4 amended to read:

5 115895. Any private person who violates any regulation
6 adopted by the department pursuant to Section 115880 is guilty
7 of a misdemeanor.

8 SEC. 7. Section 115900 of the Health and Safety Code is
9 repealed.

10 SEC. 8. Section 115905 of the Health and Safety Code is
11 repealed.

12 SEC. 9. Section 115915 of the Health and Safety Code is
13 amended to read:

14 115915. (a) Whenever any beach fails to meet the
15 bacteriological standards established pursuant to subdivision (b)
16 of Section 115880, the health officer shall, at a minimum, post the
17 beach with conspicuous warning signs to inform the public of the
18 nature of the problem and the possibility of risk to public health.

19 (b) A warning sign shall be visible from each legal primary
20 beach access point, as identified in the coastal access inventory
21 prepared and updated pursuant to Section 30531 of the Public
22 Resources Code, and any additional access points identified by
23 the health officer.